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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

JONICIA SHELTON,

Case No.

Plaintiff,

vs.

LOANDEPOT.COM, LLC,

Defendant.

COMPLAINT (Fair Housing Act,
Oregon Unlawful Trade Practices Act,
Fraud, Oregon Mortgage Broker and
Banker Law, Equal Credit Opportunity
Act)

DEMAND FOR JURY TRIAL

INTRODUCTION:

1.

This is a consumer protection and lending discrimination case arising from the defendant's catastrophic handling of the plaintiff's application to finance her first home purchased on her own after a divorce. Ms. Shelton is a mental health professional; she is the mother of two daughters. The defendant, LoanDepot.com, LLC, is a non-bank mortgage broker. Defendant's agent bungled Ms. Shelton's pending home purchase, leaving Ms. Shelton and her

children without a home at the onset of the global COVID-19 pandemic. Shortly thereafter, a different company helped Ms. Shelton obtain a mortgage to buy a house on the same terms as those promised by LoanDepot, without any change in her income or debts. Plaintiff asserts claims under Oregon and federal anti-discrimination and consumer protection laws.

JURISDICTION

2.

This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337. Jurisdiction over claims brought under the federal Fair Housing Act is authorized and instituted under 42 U.S.C. § 3613(a). Jurisdiction over claims brought under the Equal Credit Opportunity Act is authorized and instituted under 15 U.S.C. § 1691e(f). This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 because these claims are so related to the federal claims that they form part of the same case or controversy. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

PARTIES

3.

The plaintiff, Jonicia Shelton ("Ms. Shelton" and "plaintiff") is a natural person, an unmarried African-American woman, and a resident of Multnomah County, Oregon.

4.

The defendant, LoanDepot.com, LLC, ("LoanDepot") is a Delaware corporation authorized to do business in Oregon.

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FACTUAL ALLEGATIONS

5.

Plaintiff was trying to buy a home in 2019. After previously owning a home with her ex-spouse, she was trying to buy her first home as a single woman. She was referred to defendant by a local housing non-profit, as defendant originates loans under the Oregon Bond Residential Loan program. Plaintiff applied for a purchase money mortgage from defendant and began searching for a home.

6.

In conjunction with her application to defendant for a mortgage, plaintiff turned over accurate and complete information about her income, debts, and credit history. In late December 2019, defendant gave Ms. Shelton a pre-approval letter for a loan of up to \$330,000. On the strength of that letter, she made an offer to purchase a home. The offer was accepted by the seller on January 4, 2020. Plaintiff contacted LoanDepot's loan originator, informed him of the pending home purchase, and asked him to finalize arrangements for the loan.

7.

On or about February 7, 2020, LoanDepot's loan originator told plaintiff that it was time to order the appraisal of the home, which plaintiff did, paying \$700.00 for it. At the time, she and her daughters were living in a rented apartment. She asked LoanDepot's loan originator when she needed to give notice to her landlord that she would vacate her rented apartment. He told her it was fine to give notice to her landlord then, implying that the loan he was arranging for her was approved and would definitely close so that she could buy the new home. Plaintiff gave her landlord 30-days' notice and the landlord rented the place to another tenant immediately.

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8.

After she gave notice on her apartment, LoanDepot's loan originator informed plaintiff that he was withdrawing her pre-approval for financing, but that he would get her a different loan. A few weeks later, on or about February 20, 2020, he told plaintiff that he could not approve her for any loan. At that point, the home purchase was scheduled to close on February 25, 2020. There was no way for plaintiff to work out alternative financing quickly enough to salvage the deal.

9.

The sale fell through due to LoanDepot's failure to obtain financing for Ms. Shelton. Because her landlord had already rented her apartment to another tenant, she and her daughters had no place to live. A friend offered to allow them to move into her home, which they did, out of desperation, just as the global COVID-19 pandemic was beginning.

10.

Plaintiff suffered out-of-pocket loss due to LoanDepot's failure to approve her for a loan. In addition to the \$700.00 appraisal fee she paid, plaintiff lost \$2000.00 in earnest money to the property seller and approximately \$600.00 for inspection costs. She lost about \$5200.00 in moving expenses and household goods due to the downsizing required to temporarily move into her friend's house, for a total economic loss of approximately \$8500.00. Plaintiff also experienced severe emotional distress as a result of the failed transaction and unnecessary move, entitling her to an award of non-economic damages of at least \$50,000.00.

11.

Approximately one month after LoanDepot failed to approve and fund Ms. Shelton's purchase of a home, she qualified for a home loan through a different mortgage broker for the

same purchase amount, based on the same income and credit information she had supplied to LoanDepot.

12.

LoanDepot had no legitimate business rationale for declining to approve a loan for the plaintiff. Further, LoanDepot engaged in a pattern of providing misleading and incompetent loan origination services to other single African American women. As a result, Plaintiff alleges that LoanDepot discriminated against her in the provision of services connected to the sale of housing, based on her race, marital status, and sex.

FIRST CLAIM FOR RELIEF--Fair Housing Act (FHA)

13.

Plaintiff hereby re-alleges and incorporates by reference paragraphs 1 through 12 above.

14.

The mortgage loan application plaintiff made to defendant was a residential real estate-related transaction within the meaning of 42 U.S.C. § 3605(b).

15.

Defendant is a person or entity whose business includes engaging in residential real estate-related transactions, within the meaning of 42 U.S.C. §§ 3602 and 3605.

16.

On information and belief, the defendant unlawfully discriminated against plaintiff on the basis of race and sex in violation of 42 U.S.C. §§ 3604 and 3605, and engaged in discriminatory housing practices as defined by 42 U.S.C. § 3602(f), as described in paragraph 12, above.

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17.

Because of defendant's discriminatory housing practices, plaintiff incurred economic and non-economic damages, as described more fully in paragraph 10, above. Plaintiff is entitled to an award of reasonable attorney fees and costs under the FHA.

18.

Defendant was aware of plaintiff's federally protected rights under the FHA, was aware or should have been aware of her race and sex, and acted with malice or, alternatively, with callous or reckless indifference that its actions might violate her federally-protected rights, warranting an award of punitive damages to be proven at trial.

SECOND CLAIM FOR RELIEF--OREGON UNLAWFUL TRADE PRACTICES ACT,
ORS 646.605, *et seq.*

19.

Plaintiff realleges paragraphs 1 through 18, above.

20.

The loan application at issue in this case was made for personal, family, or household purposes.

21.

LoanDepot's loan originator's instruction to plaintiff that it was safe to give notice on her apartment when it had not yet approved her for a loan, and his statement to plaintiff that she could not qualify for any financing due to some failure of her qualifications, were misrepresentations that caused the loss of her family's shelter and her pending home purchase.

These statements constituted actionable misrepresentations or omissions about the nature and qualities of the loan transaction, in violation of ORS 646.608(e) and (k).

22.

Plaintiff has suffered ascertainable loss in the form of expenses she incurred due to the thwarted home purchase and unnecessary move in an approximate amount of \$8500.00, the exact amount of which will be proven at trial.

23.

LoanDepot acted with reckless and outrageous indifference to a highly unreasonable risk of harm, warranting an award of punitive damages to be proven at trial, at a minimum amount of \$500,000.00.

THIRD CLAIM FOR RELIEF--Fraud

24.

Plaintiff realleges and incorporates by reference paragraphs 1 through 23.

25.

Defendant defrauded plaintiff in the following respects, each of which were material to her losses connected with the home loan application she submitted to defendant:

A. Defendant's loan originator's instruction to plaintiff that it was safe to give notice on her apartment when it had not yet approved her for a loan.

B. Defendant's loan originator's statement to plaintiff that she could not qualify for any financing due to some failure of her qualifications was untrue and caused her economic loss and non-economic damages in connection with the ruined purchase transaction, as described in paragraph 10, above.

26.

Defendant, in handling the mortgage application for plaintiff, knowingly made the representations and omissions described in paragraph 25 (or, alternatively, knew that they were ignorant of the truth) with the intent to induce Ms. Shelton to rely on those representations.

27.

Plaintiff relied on LoanDepot to arrange a loan for her home purchase and provide related expertise as a professional mortgage originator. Ms. Shelton was unaware of defendant's misrepresentations and omissions when she gave notice on her apartment and when the closing of her purchase passed without the defendant having lined up financing for her. As a consequence, Ms. Shelton suffered economic damages and non-economic damages to be proven at trial, as described in paragraph 10, above.

28.

Defendant's misrepresentations and omissions were made with malice or, alternatively, with callous or reckless indifference to the health and welfare of Ms. Shelton and her children, warranting an award of punitive damages to be proven at trial.

FOURTH CLAIM FOR RELIEF--Oregon Mortgage Lender Law, ORS 86A.095-.198, *et seq.*

29.

Plaintiff realleges and incorporates by reference paragraphs 1 through 28.

30.

Defendant LoanDepot is a mortgage broker or banker, as defined by ORS 86A.100.

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31.

The mortgage loan transaction which is the subject of this action constitutes a “residential mortgage transaction” as defined by ORS 86A.100(8), and LoanDepot was required to be licensed under ORS 86A.103 to engage in this transaction.

32.

As described particularly above, defendant transacted business as a mortgage banker or mortgage broker by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, in violation of ORS 86A.151(b)(A).

33.

Additionally, or in the alternative, defendant has employed a device, scheme or artifice to defraud the plaintiff, or knowingly made untrue statements of material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or engaged in an act, practice or course of business which operated as a fraud or deceit, in violation of ORS 86A.154(1)-(3).

34.

As a result of defendant's violations of the Oregon Mortgage Lender Law, Ms. Shelton suffered an ascertainable loss. Plaintiff seeks damages in an amount equal to her ascertainable loss described in paragraph 10, above, pursuant to ORS 86A.151(2), and attorney fees pursuant to ORS 86A.151(7).

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FIFTH CLAIM FOR RELIEF--Equal Credit Opportunity Act (ECOA)

35.

Plaintiff hereby realleges and incorporate by reference paragraphs 1 through 34 above.

36.

Defendant is a creditor and the above-referenced mortgage loan application constituted an application for credit as defined by the ECOA, 15 U.S.C. § 1691a(b) and Regulation B, 12 C.F.R. § 202.2.

37.

Ms. Shelton was an applicant for credit within the meaning of 15 U.S.C. § 1691a(b) and Regulation B, 12 C.F.R. 202.2(e).

38.

Ms. Shelton is a member of protected classes under ECOA based on her race, sex and marital status.

39.

The defendant unlawfully discriminated against plaintiff on the basis of race and sex in violation of 15 U.S.C. § 1691(a) and Regulation B, 12 C.F.R. § 202.4(a), as described in paragraph 12, above.

40.

Because of the above-referenced violations of the ECOA and Regulation B and in accordance with 15 U.S.C. § 1691e, defendant is liable to plaintiff for economic and non-economic damages described in paragraph 10, above, punitive damages not to exceed \$10,000.00, and costs and reasonable attorney fees.

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PRAYER FOR RELIEF:

WHEREFORE, plaintiff prays for:

1. On her first claim for relief (Fair Housing Act):

A. Economic damages of approximately \$8,500.00, and non-economic damages of approximately \$50,000.00, in an exact amount to be proven at trial, together with prejudgment interest;

B. Reasonable attorney fees and costs, pursuant to 42 U.S.C. § 3613(c)(2);

C. Punitive damages.

2. On her second claim for relief (Oregon Unlawful Trade Practices Act):

A. Actual damages of approximately \$8,500.00, in an exact amount to be proven at trial, together with prejudgment interest;

B. Reasonable attorney fees pursuant to ORS 646.641(2);

C. Punitive damages.

3. On her third claim for relief (Fraud):

A. A. Economic damages of approximately \$8,500.00, and non-economic damages of approximately \$50,000.00, in an exact amount to be proven at trial, together with prejudgment interest;

B. Punitive damages.

4. On her fourth claim for relief (Oregon Mortgage Broker and Banker Act):

A. Actual damages of approximately \$8,500.00, in an exact amount to be proven at trial, together with prejudgment interest;

B. Attorney fees pursuant to ORS 86A.151(7).

5. On her fifth claim for relief (Equal Credit Opportunity Act):

A. Economic damages of approximately \$8,500.00, and non-economic damages of approximately \$50,000.00, in an exact amount to be proven at trial, together with prejudgment interest;

B. Punitive damages not to exceed \$10,000.00;

C. Reasonable attorney fees and costs pursuant to 15 U.S.C. § 1691e(d).

JURY DEMAND:

Plaintiff hereby demands trial by jury.

Dated this 22nd day of December, 2020.

/s/ Hope Del Carlo

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